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**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

QUONSET PARTNERS, LLC,  
a California Limited Liability  
Company,

PLAINTIFF,

v.

City of Coachella, a Municipal  
Corporation, and DOES 1 Through  
100, Inclusive

DEFENDANTS.

Case No.: 5:2022-CV-00672-JGB-KKx

**PLAINTIFF'S NOTICE OF NON-  
OPPOSITION TO DEFENDANT'S  
MOTION TO DISMISS AND  
REQUEST FOR LEAVE TO AMEND**

Date: February 27, 2023

Time: 9:00 a.m.

Ctrm: 1

Action Filed: April 20, 2022

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3 **I. STATEMENT OF NON-OPPOSITION**

4 Quonset Partners, LLC submits this statement of non-opposition on the grounds  
5 that discovery is continuing and without discovery, Plaintiff is unable to oppose  
6 Defendant's motion.  
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9 **II. THE COURT SHOULD PLAINTIFF LEAVE TO AMEND**

10 The 9<sup>th</sup> Circuit will review five factors in assessing whether a district court abused  
11 its discretion in dismissing a complaint without leave to amend: "bad faith, undue  
12 delay, prejudice to the opposing party, futility of amendment, and whether the plaintiff  
13 has previously amended the complaint." *United States v. Corinthian Colleges*, 655  
14 F.3d 984, 995 (9th Cir.2011) Here, taking all five factors as whole, weights in favor  
15 of granting Plaintiff leave to amend.

16 The Court should not find evidence of bad faith. The following conspiracy  
17 which is alleged in the Complaint takes place clandestinely. The Plaintiffs are aware  
18 of the effects of the Conspiracy, to deprive Plaintiff of its property and rights to use  
19 certain property. Nonetheless, because of the clandestine nature of the allegations,  
20 Plaintiff necessitates the discovery process to identify those responsible and providing  
21 leave to amend will provide Plaintiff the necessary time to fully identify the characters  
22 in the underlying conspiracy. Additionally, there is no undue delay or prejudice to  
23 the City if Plaintiff is granted leave to amend. City is not deprived of the use of any  
24 property or right to act. Allowing Plaintiff's the opportunity to amend the complaint  
25 to include additional discoverable facts does nothing to prejudice Defendant City. this  
26 Court's discretion to deny leave to amend is "particularly broad" even where a  
27 plaintiff has filed an amended complaint. *Miller v. Yokohama Tire Corp.*, 358 F.3d  
28 616, 622 (9th Cir.2004) Citing *Eminence Capital LLC v. Aspeon, Inc.*, 316 F.3d 1048,

1 1052 (9th Cir.2003) (holding that dismissal without leave to amend is improper unless  
2 the complaint could not be saved by any amendment). Here, the City's allegations of  
3 Conspiracy can be amended to overcome the defects alleged by the Defendant City.  
4 Specifically, the City can demonstrate the others involved in the conspiracy, via  
5 public records request and the coordinate with the City and the new owner of the  
6 Property, the former lender to Plaintiff. Additionally, Plaintiff may be able to provide  
7 witnesses who were former City employees who were aware of the conspiracy.  
8 Because facts may be added, after sufficient discovery is conducted by Plaintiff, leave  
9 to amend should be granted.

### 11 III. CONCLUSION

12 For the foregoing reasons, the Court should GRANT Plaintiff leave to amend  
13 its Complaint.

#### 16 DRWELCH ATTORNEYS AT LAW

17 By: /s/ David R. Welch  
18 David R. Welch  
19 Attorneys for Plaintiff Quonset  
20 Partners, LLC  
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